

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of

GTE CORPORATION,
 Transferor,

AND

BELL ATLANTIC CORPORATION,
 Transferee,

For Consent to Transfer Control of

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CC Docket No. 98-184

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Comments of the Texas Office of Public Utility Counsel
On Applicants' Proposed Voluntary Merger Commitments

The Texas Office of Public Utility Counsel (Texas OPC) respectfully provides its Comments in the above-styled application on the Applicants' proposed voluntary merger conditions. Texas OPC offers these comments to address only one area, involving GTE's no minimum bill commitment. Texas OPC has also joined with other state advocates in providing comments on the enhanced lifeline issues as well.

On October 2, 1998, Bell Atlantic Corporation and GTE Corporation (the Applicants) filed joint applications under sections 214 and 310(d) of the Communications Act (the Act), 47 U.S.C. §§ 214 and 310(d), requesting Commission approval of the transfer of control to Bell Atlantic of licenses and authorizations controlled or requested by GTE or its affiliates or subsidiaries. On January 27, 2000, the Applicants submitted a supplemental filing, renewing their request that the Commission grant the pending license transfer applications. The supplemental filing also includes a set of proposed voluntary merger conditions that the Applicants assert are likely to produce benefits in the markets for local advanced services. More importantly, the Applicants submit that the proposed commitments will help to ensure that

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consumers receive high quality and low cost telecommunications services. Subsequently, the Federal Communications Commission (Commission) issued a Public Notice seeking comments on these Voluntary Merger Commitments by March 1, 2000.

I. Introduction

Texas OPC is the Texas state agency designated by that state's laws to represent the residential and small commercial utility consumer interests of that state. It is responsible for representing those interests before Texas and federal regulatory agencies as well as the courts. Texas Utilities Code §§ 13.001-13.063.

GTE Corp. has a sizeable presence in Texas, affecting a substantial number of residential and small commercial customers in the state. It owns the second largest ILEC in the state of Texas, comprising over 2.3 million customers. GTE has also provided long distance service in the state for several years. Due to an exception in its state statute, Texas does not have a proceeding before the Texas Public Utility Commission's (PUC) for review of the proposed merger. This FCC review will, therefore, constitute the only consideration of these merger issues as far as Texas consumers are concerned. Texas OPC, moreover, offers these comments on the proposed merger due to its concern that residential customers benefit from this merger to the same degree as residential customers of other companies have benefited from Commission review and approval of other similar telecommunication company mergers.

II. Comments on InterLATA Services Pricing Issues

In its Proposed Conditions, the Applicants state:

In the GTE States (excluding Virginia and Pennsylvania), Bell Atlantic/GTE shall be allowed to charge mandatory, minimum monthly or flat-rate charges on interLATA calls until such time as AT&T Corp. and its affiliates cease to apply such charges.

January 27, 2000, Proposed Conditions ¶ 44(c). In the Bell Atlantic states, the Company has agreed to not institute mandatory, minimum monthly or flat-rate charges on interLATA calls upon merger closing. This provision is subject to a 36-month window. In contrast, in the GTE states (excluding Virginia and Pennsylvania), no such commitment is made. Rather, GTE will not institute mandatory, minimum monthly or flat-rate charges on interLATA calls before compelled to do so by the forces of competition. In support of this proposal, the Applicants assert that they do not wish to be “disadvantaged in comparison to the major long distance incumbents” by instituting mandatory, minimum monthly or flat-rate charges on interLATA calls before AT&T Corp. January 27, 2000, Supplemental Filing of Bell Atlantic and GTE at 29.

Texas OPC recommends that the no minimum bill commitment for GTE be modified to conform to that made by Bell Atlantic and begin on the same date as the Bell Atlantic commitment—the Merger Closing Date. Texas OPC recommends this change to the proposal for two reasons:

- Unless the no minimum bill standard is applied now to GTE, GTE residential and small commercial consumers, especially low volume, will realize little, if any, meaningful direct benefit from the merger.
- FCC approval of GTE’s proposal actually works to GTE’s benefit because it delays the expected date for industry wide-adoption of no minimum bills.

Texas OPC acknowledges that GTE has *in theory* committed at this stage to no minimum bills. However, such theoretical commitment is of little value to low volume long distance customers in the GTE service area who are now experiencing higher phone bills due to GTE’s minimum bill practices. The proposal will not even be triggered, if at all, until competitive pressures force GTE to institute no minimum bills. Given that GTE would have been compelled

anyway to adopt no minimum bills once AT&T does so, it is difficult to see what merger public interest benefit, if any, actually arises from this commitment as it now stands. Texas OPC recommends that the GTE commitment must be conformed to the Bell Atlantic commitment in order for the merger to generate consumer value and public interest benefits for GTE's customers as well as Bell Atlantic customers. Moreover, the potential is very great that GTE will have to institute no minimum bills along with AT&T as a part of the CALLS latest proposal. Again, if GTE expects to be compelled to institute no minimum bills through regulatory action at the same time AT&T is compelled to do so, then its commitment in this merger proceeding to do so is of little public interest value.

GTE's proposal will actually reduce consumer benefits in the long run, because approval effectively delays implementation of no minimum bills until compelled to by regulatory action or industry-wide competitive forces. Given the current situation in the industry concerning no minimum bills, Texas OPC believes that approval of the GTE no minimum bill condition will effectively chill efforts elsewhere in the industry to achieve system-wide no minimum bills. Such a result works to the disadvantage of the public interest because it prevents GTE consumers from realizing any residential phone service pricing benefit due to the merger until long after the merger has closed.

Moreover, the proposal is patently unreasonable. Texas OPC believes that this merger is driven by the same industry synergies that compelled SBC to merge with Ameritech. Accordingly, in principle the conditions that the FCC applied to these other mergers should be applicable to the Bell Atlantic/GTE merger as well absent compelling evidence to the contrary. No explanation, however, is offered as to why two GTE states, Virginia and Pennsylvania, are part of the no mandatory, minimum monthly or flat-rate charges commitment, while all the other

states are excluded from the no minimum bill provision. Texas OPC submits that GTE customers in the other states have just as much need for no minimum bill as those in the two exempted states.

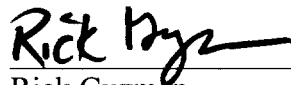
III. Conclusion

Texas OPC respectfully requests that the Commission modify the GTE no minimum bill proposal as explained in these Comments. Specifically, Texas OPC recommends that the GTE no minimum bill proposal be modified to conform to the Bell Atlantic proposal to be effective on merger closing. Only until such action is taken can GTE legitimately claim to be improving residential telephone service for its customers as a result of the merger.

Dated: March 1, 2000

Respectfully submitted,

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